THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 15468 of 2005

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Dated:17.08.2005

Between:

Leburu Vidyadhar Reddy, S/o. Sudheer Reddy,
R/o. Chandra Mouli Nagar, Nellore, Nellore District,

..... PETITIONER

AND

1 The Commissioner, Prohibition & Excise, Hyderabad, and others.

.....RESPONDENTS

ORDER:

The petitioner is a resident of Santhapeta, Nellore Town. He obtained a licence under the A.P.Excise (Lease of Right of Selling by shop and Conditions of Licence) Rules, 2005, for selling Indian Liquor and Foreign Liquor. It is his case that when he applied to the Commissioner for Prohibition & Excise, for licence to run a Bar and Restaurant, the same was rejected on the ground that the place where the petitioner wanted to setup the Bar was at a distance of 47.3 meters from the Santhapeta Mosque. Later as noticed supra, he obtained licence for opening a shop.

On coming to know that the fourth respondent applied for a Bar licence and apprehending that such a licence might be granted by the Commissioner, the petitioner filed W.P.No.13928 of 2005 seeking a declaration that the action of the respondents therein in granting permission to the fourth respondent (fifth respondent in the earlier writ petition) to run a Bar and Restaurant in the name and style of M/s. Manjeera Bar and Restaurant at 10th ward, Santhapeta, is illegal and arbitrary.

This Court by an order dated 29.06.2005 dismissed the writ petition. The petitioner again filed the present writ petition alleging that after obtaining another report, the first respondent is going to issue licence to the fourth respondent in opening Bar and Restaurant.

This Court passed interim orders on 19.07.2005 in W.P.M.P.No.19649 of 2005. The fourth respondent has now moved this Court by filing W.V.M.P.No.2005 of 2005 for vacating the interim orders. At this stage, the matter is heard finally and is being disposed of.

The A.P.Excise (Grant of Licence of selling by Bar and Conditions of Licence) Rules, 2005 (for short 'the Rules') govern the grant of licences to a Bar for sale of Indian Liquor and Foreign Liquor, in loose for consumption on the licensed premised. Rule 6 of the Rules stipulates restrictions on grant of licence. As per Rule 6(1)(ii) no Bar licence can be granted within 100 meters from Educational Institutions, places of worship like Temple and Mosque, Church and Hospitals. However, in the limits of Municipal Corporations, the distance restriction is 50 meters. Therefore, the first respondent is bound to consider this aspect while considering the application of the fourth respondent for grant of Bar licence. If necessary, the first respondent may obtain a survey report from the Executive Officer, Roads and Buildings Department, regarding the distance between the place where the fourth respondent proposes to setup the Bar and Restaurant and the Santhapeta Mosque. Needless to mention that the distance between the Mosque and the shop has to be measured in accordance with the Rule contained in Rule 6 of the Rules, which reads as under.

> The distances referred above shall be measured from the mid-point of the entrance of the proposed Bar premises along with the nearest path by which pedestrian ordinarily reaches to the mid-point of the nearest gate of the institution or a place of public worship, if there is a compound wall and there is no compound wall to the mid-point of the nearest entrance of the

Institution/place of public worship or to the entrance of the first house of the predominantly residential area.

The first respondent is further directed to complete this exercise as above, within a period of four weeks from today. The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

17.08.2005

vs